UNITED STATES OF AMERICA

BEFORE THE NATIONAL LABOR RELATIONS BOARD

MARKFEST, INC. A/K/A SKOGEN'S FESTIVAL FOODS

Employer

and

Case 30-RD-1510

PETER ANTHONY KAISER

Petitioner

and

UNITED FOOD AND COMMERCIAL WORKERS UNION, LOCAL 1473

Union

DECISION AND CERTIFICATION OF REPRESENTATIVE

The National Labor Relations Board has considered a determinative challenge in an election held on May 22, 2009, and

¹ Effective midnight December 28, 2007, Members Liebman, Schaumber, Kirsanow, and Walsh delegated to Members Liebman, Schaumber, and Kirsanow, as a three-member group, all of the Board's powers in anticipation of the expiration of the terms of Members Kirsanow and Walsh on December 31, 2007. Pursuant to this delegation, Chairman Liebman and Member Schaumber constitute a quorum of the three-member group. As a quorum, they have the authority to issue decisions and orders in unfair labor practice and representation cases. See Sec. 3(b) of the Act. See Snell Island SNF LLC v. NLRB, 568 F.3d 410 (2d Cir. 2009), petition for cert. filed 78 U.S.L.W. 3130 (U.S. September 11, 2009) (No. 09-328); New Process Steel v. NLRB, 564 F.3d 840 (7th Cir. 2009), petition for cert. filed 77 U.S.L.W. 3670 (U.S. May 22, 2009) (No. 08-1457); Northeastern Land Services v. NLRB, 560 F.3d 36 (1st Cir. 2009), petition for cert. filed 78 U.S.L.W. 3098 (U.S. August 18, 2009) (No. 09-213). But see Laurel Baye Healthcare of Lake Lanier, Inc. v. NLRB, 564 F.3d 469 (D.C. Cir. 2009), petition for cert. filed sub nom. NLRB v. Laurel Baye Healthcare

the hearing officer's report recommending disposition of it. The tally of ballots shows 66 for and 65 against the Petitioner, with 2 determinative challenged ballots.²

The Board has reviewed the record in light of the Employer's exceptions and brief, has adopted the hearing officer's findings and recommendations, and finds that a certification of representative should be issued.

CERTIFICATION OF REPRESENTATIVE

IT IS CERTIFIED that a majority of the valid ballots have been cast for United Food and Commercial Workers Union, Local 1473, and that it is the exclusive collective-bargaining representative of the employees in the following appropriate unit:

All employees working at the Employer's Marshfield, Wisconsin store including all employees who are actively engaged in the handling or selling of merchandise, but excluding all Department Heads, Casual Employees, defined as working fewer than 12 hours a week, Assistant Managers, Assistant Front-End Manager, and Third Shift Supervisor.

Dated, Washington, D. C., October 28, 2009.

	Wilma B.	B. Liebman, C.		Chairman	
	Peter C.			Member	
(SEAL)	NATIONAL	LABOR	RELATIONS	BOARD	

of Lake Lanier, Inc., __U.S.L.W.__ (U.S. September 29, 2009) (No. 09-377).

² We express no view on employee Morgan Chaffin's eligibility, as the parties agreed at the hearing that the Board agent's challenge to her ballot should be sustained.